

AMENDMENT TO THE DRAWINGS

Please replace originally filed Figures 3-8 and 10-12 with the replacement Figures 3-8 and 10-12 that are provided herewith.

REMARKS

Claim Amendments

The claims are amended as noted above, cancelling claims 1-22 without prejudice and introducing new claim 23. New claim 23 relates to a method for identifying a single fluorescent molecule in an interrogation space. Claim 23 is supported in the original application at least at, for example, page 4, lines 6-15, page 7, line 32 – page 8, line 2, and page 25, lines 1-12 and 24-37. Thus, the claim amendments do not constitute new matter.

Drawings

Originally filed Figures 3-8 and 10-12 are alleged to be of poor quality and corrections to those Figures are required. Accordingly, Applicant has submitted herewith higher quality replacement versions of original Figures 3-8 and 10-12 which should address this objection. There are no substantive changes made to the Drawings, and thus, they do not constitute new matter.

THE OFFICE ACTION

I. Rejection of Claims based on 35 U.S.C. § 112, second paragraph.

Claim 8 stands rejected under 35 U.S.C. § 112, for allegedly being indefinite as it relates to the description of the third filter and cross-correlation events. Applicant believes that the claim amendments have obviated this rejection.

II. Rejection of Claims based on 35 U.S.C. § 102.

Claims 1-15 and 19-22 stand rejected under 35 U.S.C. § 102(b), for allegedly being anticipated by Ito et al. (U.S. Patent 5,760,900). Applicant respectfully disagrees with the rejection.

While the claim amendments should obviate this rejection, the amendments have been made merely in an effort to expedite prosecution of new claim 23. The claim amendments should not be interpreted as acquiescing to the basis of the rejection as detailed in the pending Office action.

Further, new claim 23 relates to a method for identifying a single fluorescent molecule in an interrogation space comprising: processing fluorescent light from the fluorescent molecule in the interrogation space with an analytical filter that divides the fluorescent light into equally spaced-apart bins and identifies light above a threshold level; wherein a single fluorescent molecule in the interrogation space is identified by a predetermined threshold level of light and light in the spaced-apart bins. The disclosure of Ito does not anticipate the claimed invention, as it fails to disclose a method for identifying a single fluorescent molecule in an interrogation space, as claimed.

III. Rejection of Claims based on 35 U.S.C. § 103.

Claims 16-18 and 19-22 stand rejected under 35 U.S.C. § 103(a), for allegedly being obvious in light of Ito et al. (U.S. Patent 5,760,900). Applicant respectfully disagrees with the rejection.

As noted above, the claim amendment is believed to obviate this rejection. Further, new claim 23 is not obvious in light of Ito, et al., for at least the reasons noted above, and because Ito fails to provide any suggestion or motivation as to why one of skill would modify its disclosure in a way that would result in the claimed invention.

IV. Conclusion.

If a telephone conference would expedite prosecution of the application, the Examiner is encouraged to contact Applicant's undersigned representative.

Respectfully submitted,
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